

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$39.48 for dates of service, 05/17/02 and 05/29/02.
- b. The request was received on 07/29/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. Initial Submission of TWCC-60
 1. TWCC 66a
 2. EOB(s)
 - b. Additional documentation requested on 08/07/02 and received on 08/09/02
 1. Position Statement
 2. Copy of the 2002 Redbook Database Services – Ready Price, pp 169-170, 253-254; April 2002 p. 24
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. Medical Audit summary/EOB/TWCC 62 form
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 08/16/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 08/20/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit II of the Commission's case file.
4. Notice of a Letter Requesting Additional Information Submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 08/09/02

“The expected out come [sic] of this issue is that we feel the claims should be paid per Rule 134.503 (a)(2)(A). In accordance with this Rule, the following formula shall be utilized for generic medications: $AWP \times \text{number of units} \times 1.25 + \$4.00 = \text{MAR}$. In this case the patient received 45 pills on each date the AWP is $123.36 \times 1.25 + \$4.00 = 158.20$. Therefore, reimbursement should be \$158.20 not the \$138.46 the Carrier paid. Apparently the Carrier has used the formula for a brand name drug which is $AWP \times 1.09 + 4.00$ which would equal the amount that they paid. However, this is a generic drug not a brand name. I am enclosing the listing from Red Book that notes this drug as being a generic not a name brand drug. Please intervene on our behalf and determine if the Carrier is responsible for payment.”

2. Respondent: No position statement found.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 05/17/02 and 05/29/02.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$316.40 for services rendered on the dates above.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$276.92 for services rendered on the dates above.
5. The Carrier’s EOB deny additional reimbursement as “ZI2 (M) CHARGE FOR THIS PROCEDURE EXCEEDS AVERAGE WHOLESALE PRICE PLUS MARK-UP.”
6. Per the Requestor’s representative the amount in dispute is \$39.48 for services rendered on the dates above.
7. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
05/17/02 05/29/02	J8499 J8499	\$158.20 \$158.20	\$138.46 \$138.46	ZI2 ZI2	No MAR No MAR	(l) (A); TWCC Rule 134.500 (b)	<p>The Carrier has denied the charge in dispute as "ZI2 (M) CHARGE FOR THIS PROCEDURE EXCEEDS AVERAGE WHOLESALE PRICE PLUS MARK-UP".</p> <p>Billing is in compliance with the TWCC Rule 134.503 of AWP x number of units x 1.25 + \$4.00 = MAR. Therefore, additional reimbursement is recommended in the amount of \$39.48 (123.36 x 1.25 + \$4.00 = \$158.20 - \$138.46 payment received = \$19.74 x 2 dates of service = \$39.48).</p>
Totals		\$316.40	\$276.92				The Requestor is entitled to reimbursement in the amount of \$39.48 .

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$39.48** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 7th day of January 2003.

Denise Terry
 Medical Dispute Resolution Officer
 Medical Review Division
 DT/dt